

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

TYLER DWAYNE NEW,

Plaintiffs,

v.

CIVIL ACTION NO. 1:24-00212

METROPOLITAN LIFE INSURANCE
COMPANY, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendants' motion to dismiss. See ECF No. 5. In their motion, defendants argued that: 1) plaintiff's state law claims should be dismissed as they are preempted by The Employee Retirement Income Security Act of 1974 ("ERISA"); 2) defendants Cleveland-Cliffs Princeton Coal, Inc., Twin State Mining, Inc., and XMV, Inc. should be dismissed; and 3) that plaintiff's breach of contract claim should be converted into an ERISA claim against defendant Metropolitan Life Insurance Company. Plaintiff responded to defendants' motion, agreeing with defendants' arguments.


Accordingly, defendants' motion is **GRANTED** insofar as it seeks dismissal of defendants Cleveland-Cliffs Princeton Coal, Inc., Twin State Mining, Inc., and XMV, Inc. In addition, plaintiff is **ORDERED** to file an amended complaint within 14 days of this Order removing his state law claims and asserting a

claim for ERISA benefits. Failure to file an amended complaint will result in dismissal of this action.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record.

IT IS SO ORDERED this 1st day of October, 2024.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge